

Remarks:

In reply to the Office Action of April 3, 2008 ("Office Action"), previously examined claims 13, 15, 16, 18, 20, 21, and 23 – 25 are canceled and new claims 26 – 38 are added. Support for the new claims is found in the specification as filed. No new subject matter is added.

In the Office Action, claims 13, 15, 16 and 23 were rejected under 35 U.S.C. §103 as being unpatentable over Cros (US Patent 4,149,092) in view of Hopfe (US Patent 4,335,576). Likewise, claims 18, 20, 21, 24 and 25 were rejected under 35 U.S.C. §103 as being unpatentable over the combination of Cros, Hopfe, and WO 00/50768 to Fraenkel. Applicants, nevertheless, have canceled these claims and added new claims. Referring to the new claims, the combination of Cros and Hopfe do not teach or suggest "the hydraulic fluid within the fluid supply line to be applied to the power producing assembly as a smooth continuous flow through at least one nozzle," "where after application of the pressurized hydraulic fluid to the power producing assembly the hydraulic fluid is returned gravitationally by way of the fluid return line to the pump system," "the power producing assembly being positioned above the water current turbine assembly," and/or "a hydraulic motor configured to rotate in response to the flow through the at least one nozzle at a rotation rate higher than and independent of the rotor shaft." Nor do Cros and Hopfe teach or suggest the limitations of claims 34 – 37 of the means for making up hydraulic fluid leakage. It is noted that Cros requires a specialized hydraulic fluid that will cause pollution to the

surround body of water when leaked and that will need replaced periodically.

Further, Cros must have the energy dissipator because the receivers are never mechanically separated from the pumps. Finally, Cros does not teach the use of the power producing assembly, such as a hydraulic motor, driven by a jet of hydraulic fluid, where the power producing assembly is mechanically decoupled from the pumps. Accordingly, reconsideration and withdrawal of this ground of rejection are respectfully requested.

Conclusion:

With the forgoing new claims, the present application is believed to be placed in condition for allowance. The subscribing attorney would welcome a phone conference to attend to any matter that can be addressed by an Examiner's Amendment.

Respectfully submitted,

M. Daniel Spillman

M. Daniel Spillman
Reg. No. 61,842

BRINKS HOFER GILSON & LIONE
CUSTOMER NO. 27879
Telephone: (317) 636-0886
Fax: (317) 634-6701